

## Freedom of Information Policy Policy Number G24

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## **1. Introduction**

- 1.1. This policy sets out Clyde Valley Housing Associations responsibilities under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

## **2. Background**

- 2.1. The Freedom of Information (Scotland) Act 2002 (FOISA) came into effect in January 2005 to encourage the development of a more open culture across the public sector by providing a statutory right of access to information held by Scottish public authorities. The Environmental Information (Scotland) Regulations 2004 (EIRs) sit alongside FOISA and provide a statutory right of access to environmental information held by Scottish public authorities. In April 2019 the Scottish Parliament approved the Freedom of Information (Scotland) Act 2002 (Designation of Persons as Scottish Public Authorities) Order 2019 (the Order) bringing Registered Social landlords (RSLs) and certain RSL subsidiaries under the scope of FOISA and the EIRs from 11 November 2019.
- 2.2. This policy identifies the responsibilities of CVG staff in relation to compliance with FOISA and the EIRs. This includes the handling of Freedom of Information (FOI) and EIR requests and the adoption and maintenance of CVG's publication scheme through CVG's Guide to Information (GTI). The policy should be read alongside the GTI and other related policies.
- 2.3. The policy is intended to cover all records created in the course of the business of the CVG relating to activities covered by the legislations. This includes email messages and other electronic records as well as paper records.

## **3. Policy Statement**

- 3.1. CVG is committed to full compliance with FOISA and the EIRs. To this end it will publish a wide range of information and will explain how this and other information can be accessed within CVG. CVG will process all FOI and EIR requests on the principles of openness and transparency, while at the same time respecting its data protection responsibilities. It will provide staff with regular training and continuous professional development on FOI and EIR matters and will ensure that FOI and EIR are included in the induction of any new members of staff.

## **4. Activities Covered by the Legislation**

- 4.1. The Order applies to both RSLs and their subsidiaries who perform certain functions. These functions include, among other things, the management of social housing accommodation, where the RSL has granted a Scottish Secure Tenancy (SST) or Short Scottish Secure Tenancy (SSST). Further information on RSL functions covered by the Order is available from the Scottish Information Commissioner.
- 4.2. As the Order also applies to an RSL's statutory function of providing information to the Scottish Housing Regulator (SHR) in relation to financial well-being and standards of governance, requesters may therefore request that information direct from the RSL rather than from the SHR.
- 4.3. FOI rights apply only to information held by the CVG in relation to the functions covered by the Order.

4.4. As a commitment to openness and transparency, the Group will always consider whether information not covered by the Order can be disclosed anyway.

## **5. Responsibilities under the Policy**

5.1. Ultimate responsibility for compliance with FOISA and EIRs rests with the Chief Executive but all staff members who record information or who are in contact with the public, also have responsibilities under FOISA and the EIRs and under this policy.

5.2. The FOI lead is responsible for:

- Ensuring organisational compliance with FOISA and the EIR's
- Maintaining the currency of this policy and the GTI
- Promoting FOI and EIR awareness throughout the organisation
- Ensuring the general public has access to information about their rights under FOISA and the EIR's.
- Assisting with investigations into complaints and appeals.

5.3. The Executive Team is individually and collectively responsible for:

- Reviewing progress on CVG compliance with FOISA and EIRs
- Reporting on FOI and EIR issues to the Board
- Taking decisions on contentious FOI and EIR matters (eg exemptions and vexatious requests)
- Considering requests for review.

5.4. The Leadership Team is (individually and collectively) responsible for ensuring that:

- Information is supplied to the FOI Lead when requested for inclusion within the GTI
- Information not included within the GTI is created and stored in accordance with CVG's Data Management Policy and all relevant procedures and processes to enable easy location when required
- Ensuring that at all times there are sufficient hard copies of documents contained in the GTI
- Responding to requests for information, either by supply of the information or referral of requests for exempted information to the FOI Lead or Executive Team.

5.5. The Corporate Services Department is responsible for:

- Ensuring that the GTI is displayed on the CVG/CVHA/CVPS website and that this is regularly reviewed to ensure it is up to date and that any hyper-links continue to work.

5.6. All members of staff are responsible for:

- The creation of their own records and for adhering to CVG's Group's Data Management Policy and all relevant procedures and processes
- Informing their departmental or line managers of the creation of any new categories of document
- Ensuring that any request for information they receive is reported to the FOI Lead. Where a member of staff is unsure as to whether or not they have received an information request they should raise this with the FOI Lead. Where an information request is received and a staff member alters, destroys or conceals information held by CVG with the intention of preventing disclosure of that information a criminal offence is committed and disciplinary action may be taken.

## 6. Policy Framework

### 6.1. Guide to Information (GTI)

- To comply with FOISA, CVG has a duty to adopt and maintain a publication scheme. CVG has adopted the Model Publication Scheme (MPS) which has been produced and approved by the Scottish Information Commissioner through which it will:
  - publish the classes of information that it routinely makes available and set out the manner in which publication will be made
  - tell the public how to access the information it publishes and whether the information is available free of charge or if payment is required. This will be done through the GTI.
- CVG has published its GTI on its website and also made it available in hard copy. The GTI provides links to the information which have been published through the MPS. It also includes contact details of staff that can help access information from CVG. The GTI and MPS will be regularly reviewed and updated to ensure the currency of information contained within it.
- Requests for a hard copy of the GTI and requests for information contained within the GTI may be made to the Freedom of Information Lead, Clyde Valley Housing Group, 50 Scott Street, Motherwell, ML1 1PN or by email to [cvha@cvha.org.uk](mailto:cvha@cvha.org.uk).

### 6.2. Specific FOI Requests

- FOISA gives the public the right to access information that CVG holds, subject to certain exemptions
- A request for specific information not included within the GTI must be made in writing (or in another recordable format). Requests should include:
  - the applicant's full name and an address for correspondence (e.g. a postal or email address), alongside
  - a description of the information they are requesting.
- In certain circumstances a charge will be payable for supply of the information (see 6.3 below). FOI requests may be made to the Freedom of Information Lead, Clyde Valley Housing Group, 50 Scott Street, Motherwell, ML1 1PN or by email to [cvha@cvha.org.uk](mailto:cvha@cvha.org.uk).
- Where possible the information will be supplied in the format requested by the applicant. However, requests can be met by providing a copy of the original document, as a summary of the original or even by allowing the applicant to visit CVG's offices to read the document(s).
- FOI requests will be met promptly and in any event within 20 working days of receipt of the request (or fee – as discussed in section 6.3 below). "Working" days means Monday to Friday and not bank holidays or Christmas Day. The first working day of the request is the first working day after the date on which CVG receives it. If CVG has to ask for more details to help it identify exactly what the applicant is asking for, the 20 working days will only start once those details have been provided.
- If CVG advises the applicant that a fee is due, the 20 working day clock will stop. Once the fee is paid, the clock will re-start again.

### 6.3. Fees

- Where CVG publish information under the GTI there is no charge for viewing said information on CVG's website or at CVG's premises. CVG may charge for

providing information published under the GTI in other formats (e.g. sending out printed versions) but will charge no more than it costs CVG to provide. CVG will always advise of the total costs before providing this information. A full note of CVG's charges for providing this information is available in the GTI which can be accessed [here](#)

- CVG may charge for providing information in response to a specific FOI request. Any fees charged for additional, specific information will be set in accordance with the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004.
- CVG will not charge for the first £100 it costs to provide information in response to a request. If the cost is more than £100 but up to including £600, it will charge 10% of the cost of providing the information. As the first £100 is always free, the maximum that CVG will charge is £50 (10% of the difference between £100 and £600 – when waiving the first £100 of costs).
- If the total cost to CVG is more than £600, CVG may refuse the request but will offer advice on how the applicant can reduce the cost by making changes to the request. CVG may also ask the applicant to pay the full cost above the £600 limit
- CVG will tell applicants if it is going to charge by sending them a fee notice within 20 working days of the request, showing the estimated fee, how it has been calculated and how applicants can appeal against the fee. This will state clearly that it is a fee notice. If the actual cost turns out to be more than estimated in the fee notice, the fee will not be increased.
- CVG may charge for staff time to gather the information (up to a maximum of £15 per hour per staff member) and reasonable costs for photocopying or providing it to the applicant in another format.
- The applicant will be given three months to respond to the fee notice. The applicant may decide not to pay the fee (in which case CVG will not send the information) or may ask for the fee to be reviewed. Where an applicant is unhappy with the level of fees they should contact CVG to discuss how the scope of the request could be narrowed to reduce fees.
- CVG has a separate schedule of fees for environmental information (see Section 7 below).

#### **6.4. FOISA Exemptions**

- FOISA gives individuals the general right to see all recorded information held by CVG. In certain circumstances the Group will refuse FOI requests, for example, if:
  - the applicant has not provided enough detail to identify the information requested and does not respond to a request from CVG for clarification
  - CVG does not hold the information requested
  - It will cost over £600 to provide the information
  - CVG thinks the request is vexatious and is intended to disrupt the Groups work rather than genuine request for information.
  - CVG has already provided the information to the applicant in response to a substantially similar request (unless a reasonable period of time has elapsed)
  - The information is exempt under FOISA.
- Information may be exempt from disclosure under FOISA in some circumstances, for example where CVG can demonstrate that
  - disclosing the information would breach data protection law; or
  - disclosure would cause substantial harm to someone's commercial interests

- CVG may also disclose information subject to redacting certain pieces of information where exemptions apply
- In some circumstances when deciding if information is exempt, CVG will also be required to consider whether it would be in the public interest for the information to be released. In these circumstances CVG will disclose the information unless the public interest in disclosing the information is outweighed by the public interest in maintaining the relevant exemption
- All original requests for exempted information will be passed to the Executive Team to reconsider whether the information can be supplied. Decisions on whether a request is vexatious will be taken by the Executive Team with the assistance of legal advice where necessary. Repeated requests from the same person for information that has already been supplied to them will not be met unless there has been a “reasonable interval” between the requests, as determined by the Executive Team
- If CVG decides to refuse a request it will write to the applicant to explain why it is refusing and will also tell the applicant what to do if he or she disagrees.

### **6.5. Reviews and Complaints**

- Any applicant who is unhappy with the way their request for information has been responded to, or has not received a response within the set time limit, has a legal right to ask CVG to review its decision.
- Applicants may ask for a review within 40 working days of receiving the response from CVG, or, if no response was received, within 40 working days of the end of the original 20 working day response period
- Requests for a review must be submitted in writing or any other form that can be kept for future use (e.g. fax, audio or video tape). Requests should include
  - the applicant’s full name and an address for correspondence (e.g. a postal or email address)
  - details of the original request, and
  - the reason why the applicant wants CVG to review how it handled the request.
- Requests for a review may be made to the Freedom of Information Lead, Clyde Valley Housing Group, 50 Scott Street, Motherwell, ML1 1PN or by email to [cvha@cvha.org.uk](mailto:cvha@cvha.org.uk).
- CVG will respond to a request for a review as quickly as possible, and within 20 working days of receipt of the request for review. Reviews will be carried out by the Executive Team.
- The response will include one of the following:
  - All or some the information requested. In certain circumstances CVG will provide requested information with some sections redacted
  - A notice confirming that CVG still intends to withhold information requested, and why
  - A decision about the level of fee to be charged (if the review related to the fees)
  - A decision on the request, if CVG did not reply to the original request
  - A notice from CVG saying it doesn't think it has to review its decision, because it thinks the original request was vexatious, or the same as a request made before.
- Applicants who are not happy with the response to a request for a review may appeal to the Scottish Information Commissioner.

- Applicants may contact the Scottish Information Commissioner at Kinburn Castle, Doubledykes Road, St Andrews, Fife KY16 9DS (Tel: 01334 464610, Fax: 01334 464611) or email at [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info). Appeals can also be made through the Scottish Information Commissioner's [appeal portal](#)
- Applicants who are unhappy with the Commissioner's decision have a right of appeal to the Court of Session (but only on a point of law).

## 7. Environmental Information (Scotland) Regulations (EIRs)

7.1. Environmental information is covered by the EIRs. The EIRs sit alongside FOISA and provide similar rights to information. Under Section 39(2) (a) of FOISA, CVG may respond initially under FOISA, but go on to consider the request under the EIRs alone.

7.2. There are several differences in the way that CVG handles requests under EIRs and FOISA

- Requests for information can be made verbally under EIRs
- The 20-day time period for responding to requests can be extended to 40 working days where the request is complex and voluminous and would involve a considerable amount of work. CVG will notify applicants where the time period is extended
- There is no upper or lower cost limit and CVG can recover in full the reasonable cost of supplying the information requested. CVG has a schedule of fees relating to environmental information which is available below that sets out the charges applicable to EIR requests:
  - We do not charge for the time to determine whether we hold the environmental information requested or deciding whether the information can be released. Charges may be made for locating, retrieving and providing information to you e.g. photocopying and postage.
  - If we decide to impose a charge, we will issue you with notification of the charge and how it has been calculated. The information will be provided to you on payment of the charge.
  - If you decide not to proceed with the request, there will be no charge to you. Charges are calculated based on the actual cost to CVG of providing the information:
  - Photocopying is charged at 10p per A4 sheet for black and white copying, 20p per A4 sheet for colour copying.
  - Postage is charged at actual rate for Royal Mail First Class.
  - Staff time is calculated at actual cost per staff member hourly salary rate to a maximum of £15 per person per hour.
  - The first £100 worth of information will be provided to you without charge.
  - Where information costs between £100 and £600 to provide, you will be asked to pay 10% of the cost. That is, if you were to ask for information that costs us £600 to provide, you would be asked to pay £50, calculated on the basis of a waiver for the first £100 and 10% of the remaining £500.
  - Where it would cost more than £600 to provide the information to you, however, we will ask you to pay the full cost of providing the information, with no waiver for any portion of the cost.
- EIRs have exceptions rather than exemptions and all of these are subject to the public interest test
- Information relating to emissions has special status and will have to be supplied in most cases

- Where an applicant is unhappy with CVG's response to a request for environmental information and wants CVG to review its decision this request must be made in writing.

7.3. Requests for environmental information may be made in writing to the Freedom of Information Lead, Clyde Valley Housing Group, 50 Scott Street, Motherwell, ML1 1PN, by email to [cvha@cvha.org.uk](mailto:cvha@cvha.org.uk) or by phoning 01698 268 855

## **8. Associated Procedures**

8.1. CVG's Guide to Information (GTI) – website and hard copy

8.2. CVG's FOI Procedures incorporating:

- FOI Request template
- FOI response template
- FOI request tracker

8.3. Other Relevant CVG Documents:

- Data Protection Policy and Information Sharing Policy
- Access to Information Policy
- IT Security Policy
- IT Acceptable Use Policy
- GDPR privacy notice
- Code of conduct for governing bodies and staff

## **9. Policy and procedure effectiveness assessment criteria**

9.1. CVG will collect, collate and report data on the management of its compliance with FOISA which will be used to demonstrate the effectiveness of this policy and associated procedures.